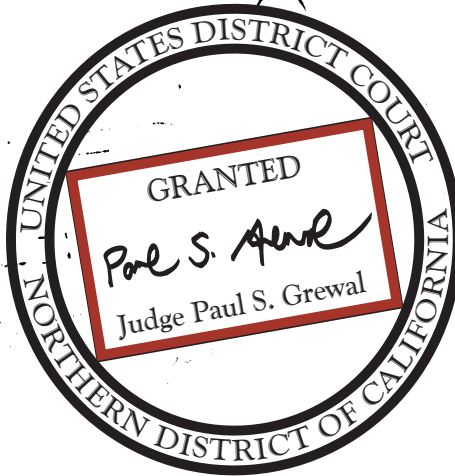


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7 Plaintiff in Propria Persona

8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION

11 WILLIAM W. BURNS

CASE NO. CV 15 2329 PSG

12 Plaintiff,

MOTION FOR CREATION AND IMPOSITION OF
A PRELIMINARY INJUNCTION TO PROTECT
THE ASSETS OF DECEDENT HELEN R. BURNS

13 VS,

14 ARLENE C. BURNS RHINE, DAVID
15 ANTHONY (TONY) RHINE, DOES
ONE TO FIFTY,

DATE: TUESDAY, AUGUST 18, 2015
TIME: 10:00 A.M.
COURTROOM: 5
JUDGE: HON. PAUL SINGH GREWAL

16 Defendants.

17 _____ /
18 Plaintiff WILLIAM W. BURNS here by moves for an Order of the Court to issue a Preliminary
19 Injunction which orders the Parties to make no transfer or conveyance of property of the Trust or Estate of Helen
20 R. Burns, Decedent. This order shall deny the Parties the right to use Estate money or property, including but not
21 limited to transfer into their personal possession or payment of any claim, including Attorney Fees or Court Costs.

22 MEMORANDUM OF POINTS AND AUTHORITIES

23 A Preliminary Injunction is usually directed at freezing circumstances in place until there is a greater
24 opportunity to hear the merits of the Case. (*CMM Cable Rep. Inc. v. Ocean Coast Properties, Inc.*, 48 Fed 3d
25 618, 620 (1st Cir 1995)). The purpose of a Preliminary Injunction is to 'preserve the status quo', pending full

MOTION FOR PRELIMINARY INJUNCTION

1 adjudication.

2 A Preliminary Injunction is needed as oppose4d to a Temporary Restraining Order because the Order is
3 only effective for a maximum of twenty-eight (28) days with a single renewal. It is necessary to protect the assets
4 from Helen R. Burns Estate until there is a full adjudication otherwise, we expect that Arlene C. Rhine and her
5 husband, Anthony David (Tony) Rhine will continue to remove funds causing irreparable injury to William W.
6 Burns and his family. The entire essence of this Case is the preservation of what is left of the assets of Helen R.
7 Burns to determine the fairness of distribution from the Estate and Trust of Helen R. Burns, and to re-determine the
8 proper distribution. The entire Estate and Trust must be retained to reach this goal.

9 An injunction order is an extraordinary writ enforceable by the judicial power of contempt. Injunction
10 Relief may be granted to afford preventive, protective, or restorative relief. The purpose of injunctive relief is to
11 prevent future harm. In the instant Case, it is alleged that Defendants have transferred considerable Trust and
12 Estate assets to themselves. The injunction will stop those transfers so that a judicial determination of proper
13 heirship may be made.

14 The Court is vested with full discretion to grant or deny requested injunctive relief (*Hecht Co. v. Bowles*,
15 321 U.S. 321, 329, 645. Ct 587 88 L .Ed. 754 (1944)). Injunctive relief is usually granted only if an adequate
16 remedy at law is unavailable. Arlene C. Rhine and her husband will continue to pillage the assets of Helen R.
17 Burns' Trust and Estate if they are not stopped, and they certainly won't return any assets they have already taken,
18 or will take. They are skillful in taking and hiding those funds, and they have used those assets to augment their life
19 style, including many cruises to Europe, Mexico, and South America.

20 **DECLARATION OF WILLIAM W. BURNS**

21 I, WILLIAM W. BURNS, am the Plaintiff in this action.

22 1. Pursuant to the Trust and Will of Helen R. Burns, I am heir to the Estate and Trust of Helen R. Burns
23 and I am a Co-Trustee of her Revocable Living Trust;

24 2. That my sister, Arlene C. Burns Rhine, is a Co-Trustee of my mother's Trust and Estate. And in that
25 capacity, she and her husband and daughter have appropriated considerable property of the Trust and Estate

1 without approval of myself, the Co-Trustee;

2 3. And that Arlene C. Rhine and David Anthony (Tony) Rhine have attempted to appropriate even
3 more of the Trust and Estate by their demand for one-half of the Morgan-Stanley Account of Helen Burns
4 (*EXHIBIT 1*), and at the same time take control of the Vanguard Accounts (*EXHIBIT 2*);

5 4. That as Co-Trustee, Arlene C. Rhine violated her fiduciary duty when she sold two (2) other stock
6 in the Helen R. Burns Revocable Living Trust Accounts, Janus and TIAAF-CREF, without my permission. The
7 sale of those funds totaled *\$90,694.41* and were transferred to her private bank account and have been spent;

8 5. That after my Mother's death, Arlene C. Rhine and Anthony David (Tony) Rhine contacted Morgan
9 Stanley, Helen R. Burns Broker, and made a request for one-half of the account. And that the request was made
10 without notice to me. Fortunately, the Broker would not release the stocks and money market funds without a
11 approval by me;

12 6. That I wrote Arlene C. Rhine that I would not authorize her request until we had a complete
13 accounting of Helen R. Burns' entire Estate and Trust;

14 7. That, I asked Arlene C. Rhine to make an offer that was fair to me to settle the Trust and Estate,
15 but I never heard from her after that, and I unfortunately had to file this law suit (*EXHIBIT 3*);

16 8. That the history of Helen R. Burns' Trust and Estate are stated in the Plaintiffs' opposition to
17 Defendants' Motion for change of venue/dismissal, and that statement also should be reviewed related to this
18 matter; and

19 9. That Plaintiff William W. Burns hereby request that a Preliminary Injunction be imposed such t
20 neither Arlene C. Rhine nor William W. Burns, or their agents, assigns or Attorneys shall have access to the
21 Vanguard Accounts, or Morgan Stanley Account, or to any remaining assets of the Trust or Estate or Helen R.
22 Burns' property which is in the hands of Arlene C. Rhine, her family, agents, or attorneys, and that no assets of
23 Helen R. Burns' Estate or Trust may be used for the payment of Attorneys Fees or Court Costs, or other expenses
24 related to this Court Action.

25 I declare to the best of my knowledge under penalty of perjury that the foregoing is true and correct.

1 Executed July 28, 2015 at Los Gatos, California.

2
3 /S/ WILLIAM W. BURNS

4 WILLIAM W. BURNS
5 In Proporia Persona
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